

AMENDED IN ASSEMBLY APRIL 19, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1282**

**Introduced by Assembly Members Mullin and Ruskin**

February 22, 2005

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An act to amend Sections ~~7204.03~~ 7203 and 7205 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1282, as amended, Mullin. Local sales and use tax: jet fuel: place of sale.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose sales and use taxes pursuant to the adoption of local ordinances. That law provides, for purposes of applying a local sales tax imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law to sales of jet fuel, with respect to a retailer that has more than one place of business in the state, that the point of sale of that fuel is the point of delivery of that fuel to the aircraft, if the principal negotiations for that sale are conducted in this state. ~~That law also provides for specific allocations of local sales tax collected with respect to specified sales of jet fuel delivered to aircraft located at a multijurisdictional airport, as defined.~~

~~This bill, would, with the exception of sales of jet fuel deemed to occur at the Ontario International Airport, delete the provisions that require allocations of local sales taxes, with respect to jet fuel delivered to aircraft located at a multijurisdictional airport, between the local government operating the multijurisdictional airport and the local government in which the multijurisdictional airport is located.~~

This bill would provide that the point of sale of jet fuel is the point of delivery of that jet fuel to the aircraft. This bill would delete those

provisions that provide, for purposes of determining the point of sale of jet fuel with respect to sales by a retailer with more than one place of business in this state, that the point of sale of that fuel is the point of delivery of that fuel only if the principal negotiations for that sale are conducted in this state. *This bill would also provide, with respect to nonretail purchases of jet fuel, that the first functional use of the jet fuel shall be deemed to occur at the point of delivery of the jet fuel to the aircraft.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 7204.03 of the Revenue and Taxation~~  
2     ~~Code is amended to read:~~  
3     SECTION 1. Section 7203 of the Revenue and Taxation Code  
4     is amended to read:  
5     7203. (a) The use tax portion of any sales and use tax  
6     ordinance adopted under this part shall impose a complementary  
7     tax upon the storage, use or other consumption in the county of  
8     tangible personal property purchased from any retailer for  
9     storage, use or other consumption in the county. That tax shall be  
10    at the rate of 1 ¼ percent of the sales price of the property whose  
11    storage, use or other consumption is subject to the tax and shall  
12    include:  
13    ~~(a)–~~  
14    (1) Provisions identical to the provisions contained in Part 1  
15    (commencing with Section 6001), other than Section 6201  
16    insofar as those provisions relate to the use tax, except that the  
17    name of the county as the taxing agency enacting the ordinance  
18    shall be substituted for that of the state (but the name of the  
19    county shall not be substituted for the word “state” in the phrase  
20    “retailer engaged in business in this state” in Section 6203 nor in  
21    the definition of that phrase in Section 6203).  
22    ~~(b)–~~  
23    (2) A provision that all amendments subsequent to the date of  
24    such ordinance to the provisions of the Revenue and Taxation  
25    Code relating to the use tax and not inconsistent with this part  
26    shall automatically become a part of the ordinance.  
27    ~~(e)–~~

1 (3) A provision that the storage, use or other consumption of  
2 tangible personal property, the gross receipts from the sale of  
3 which has been subject to sales tax under a sales and use tax  
4 ordinance enacted in accordance with this part by any city and  
5 county, county, or city in this state, shall be exempt from the tax  
6 due under this ordinance.

7 ~~(d)–~~

8 (4) A provision that the amount subject to tax shall not include  
9 the amount of any sales tax or use tax imposed by the State of  
10 California upon a retailer or consumer.

11 ~~(e)–~~

12 (5) A provision that, in addition to the exemptions provided in  
13 Sections 6366 and 6366.1, the storage, use, or other consumption  
14 of tangible personal property, other than fuel or petroleum  
15 products, purchased by operators of aircraft and used or  
16 consumed by the operators directly and exclusively in the use of  
17 the aircraft as common carriers of persons or property for hire or  
18 compensation under a certificate of public convenience and  
19 necessity issued pursuant to the laws of this state, the United  
20 States or any foreign government is exempt from 80 percent of  
21 the use tax, and on and after July 1, 2004, until the rate  
22 modifications in subdivision (a) of Section 7203.1 cease to apply,  
23 exempt from 75 percent of the use tax.

24 *(b) For the purpose of local tax, the first functional use of jet*  
25 *fuel, for the reporting and transmittal of the use tax, is always*  
26 *deemed to occur at the point that the jet fuel is delivered to the*  
27 *aircraft.*

28 ~~7204.03. Notwithstanding any other provision of this part, in~~  
29 ~~the case of retail sales of jet fuel that are consummated at Ontario~~  
30 ~~International Airport, the board shall transmit sales taxes~~  
31 ~~collected by the board pursuant to this part with respect to those~~  
32 ~~sales in accordance with both of the following:~~

33 ~~(a) All of the sales taxes that are derived from a local sales tax~~  
34 ~~rate imposed by the City of Ontario shall be transmitted to that~~  
35 ~~city.~~

36 ~~(b) All of the sales taxes that are derived from a local sales tax~~  
37 ~~rate imposed by the County of San Bernardino shall be allocated~~  
38 ~~to that county.~~

39 SEC. 2. Section 7205 of the Revenue and Taxation Code is  
40 amended to read:

1     7205. (a) Except as provided in subdivision (b), for the  
2     purpose of a sales tax imposed by an ordinance adopted pursuant  
3     to this part, all retail sales are consummated at the place of  
4     business of the retailer unless the tangible personal property sold  
5     is delivered by the retailer or his or her agent to an out-of-state  
6     destination or to a common carrier for delivery to an out-of-state  
7     destination. The gross receipts from those sales shall include  
8     delivery charges, when those charges are subject to the state sales  
9     and use tax, regardless of the place to which delivery is made.

10    In the event a retailer has no permanent place of business in the  
11    state or has more than one place of business, the place or places  
12    at which the retail sales are consummated for the purpose of a  
13    sales tax imposed by an ordinance adopted pursuant to this part  
14    shall, subject to subdivision (b), be determined under rules and  
15    regulations to be prescribed and adopted by the board.

16    (b) In the case of a sale of jet fuel, the place at which the retail  
17    sale of that jet fuel is consummated, for the purpose of a sales tax  
18    imposed by an ordinance adopted pursuant to this part, is the  
19    point of the delivery of that jet fuel to the aircraft.

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22    CORRECTIONS:

23    Text – Pages 2, 3, and 4.  
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